

108TH CONGRESS
1ST SESSION

H. R. 2575

To reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2003

Mr. BAKER (for himself, Mr. OSE, Mr. BACHUS, Mr. KING of New York, Mr. LEACH, Mr. SHAYS, Mr. LINDER, Ms. GINNY BROWN-WAITE of Florida, Mr. COX, Mr. RYAN of Wisconsin, Mr. GARY G. MILLER of California, Mr. RENZI, Mr. MANZULLO, Ms. HART, Mr. HOEKSTRA, Mr. JONES of North Carolina, Mr. TOOMEY, Mr. HENSARLING, Mr. GILLMOR, Mr. LUCAS of Oklahoma, and Ms. HARRIS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To reform the regulation of certain housing-related Government-sponsored enterprises, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Secondary Mortgage Market Enterprises Regulatory Im-
6 provement Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF REGULATION OF FANNIE MAE AND
FREDDIE MAC

Subtitle A—Improvement of Supervision

- Sec. 101. Change of name of Office of Thrift Supervision to Office of Housing Finance Supervision.
- Sec. 102. Transfer of authority to regulate safety and soundness of enterprises to Office of Housing Finance Supervision.
- Sec. 103. Duties and authorities of Director.
- Sec. 104. Examiners and accountants.
- Sec. 105. Regulations.
- Sec. 106. Assessments.
- Sec. 107. Authority of Secretary of HUD for new activities, housing information, and housing goals.
- Sec. 108. Prior approval of Secretary of HUD for new activities.
- Sec. 109. Limitation on nonmission-related assets.
- Sec. 110. Conforming loan limits.
- Sec. 111. Public disclosure of information.
- Sec. 112. Reviews of enterprises.
- Sec. 113. Risk-based capital test for enterprises.
- Sec. 114. Minimum and critical capital levels.
- Sec. 115. Required implementation of agreement.
- Sec. 116. Definitions.

Subtitle B—Prompt Corrective Action

- Sec. 131. Capital classifications.
- Sec. 132. Supervisory actions applicable to undercapitalized enterprises.
- Sec. 133. Supervisory actions applicable to significantly undercapitalized enterprises.
- Sec. 134. Authority over critically undercapitalized enterprises.

Subtitle C—Enforcement Actions

- Sec. 151. Cease-and-desist proceedings.
- Sec. 152. Temporary cease-and-desist proceedings.
- Sec. 153. Removal and prohibition authority.
- Sec. 154. Enforcement and jurisdiction.
- Sec. 155. Civil money penalties.
- Sec. 156. Criminal penalty.

Subtitle D—Reporting Regarding Enterprises

- Sec. 161. Reporting regarding enterprises.

Subtitle E—General Provisions

- Sec. 171. Conforming and technical amendments.
- Sec. 172. Effective date.

TITLE II—TRANSFER OF FUNCTIONS, PERSONNEL, AND
PROPERTY

- Sec. 201. Abolishment of OFHEO.
- Sec. 202. Continuation and coordination of certain regulations.

Sec. 203. Transfer and rights of employees of OFHEO.

Sec. 204. Transfer of property and facilities.

1 **TITLE I—REFORM OF REGULA-**
2 **TION OF FANNIE MAE AND**
3 **FREDDIE MAC**
4 **Subtitle A—Improvement of**
5 **Supervision**

6 **SEC. 101. CHANGE OF NAME OF OFFICE OF THRIFT SUPER-**
7 **VISION TO OFFICE OF HOUSING FINANCE SU-**
8 **PERVISION.**

9 (a) IN GENERAL.—Section 3 of the Home Owners’
10 Loan Act (12 U.S.C. 1462a) is amended—

11 (1) in the section heading, by striking
12 “**THRIFT**” and inserting “**HOUSING FINANCE**”;
13 and

14 (2) in subsection (a), by striking “Office of
15 Thrift Supervision” and inserting “Office of Hous-
16 ing Finance Supervision”.

17 (b) CONFORMING AMENDMENTS TO HOME OWNERS’
18 LOAN ACT.—The Home Owners’ Loan Act is amended—

19 (1) by striking “Thrift Supervision” each place
20 such term appears and inserting “Housing Finance
21 Supervision”; and

1 (2) in the table of contents in section 1, by
 2 striking the item relating to section 3 and inserting
 3 the following new item:

“Sec. 3. Director of the Office of Housing Finance Supervision.”

4 (c) OTHER REFERENCES.—Any reference in any
 5 Federal law, executive order, rule, regulation, or delega-
 6 tion of authority, or any document of or pertaining to the
 7 Office of Thrift Supervision—

8 (1) to the Director of the Office of Thrift Su-
 9 pervision is deemed to refer to the Director of the
 10 Office of Housing Finance Supervision; and

11 (2) to the Office of Thrift Supervision is
 12 deemed to refer to the Office of Housing Finance
 13 Supervision.

14 **SEC. 102. TRANSFER OF AUTHORITY TO REGULATE SAFETY**
 15 **AND SOUNDNESS OF ENTERPRISES TO OF-**
 16 **FICE OF HOUSING FINANCE SUPERVISION.**

17 (a) IN GENERAL.—Part 1 of subtitle A of title XIII
 18 of the Housing and Community Development Act of 1992
 19 is amended by striking sections 1311 and 1312 (12 U.S.C.
 20 4511, 4512) and inserting the following new section:

21 **“SEC. 1311. SUPERVISION AND REGULATION BY OFFICE OF**
 22 **HOUSING FINANCE SUPERVISION.**

23 “(a) IN GENERAL.—The enterprises shall, to the ex-
 24 tent provided in this title, be subject to the supervision
 25 and regulation of the Director of the Office of Housing

1 Finance Supervision. The Director shall succeed to the au-
2 thority of the Director of the Office of Federal Housing
3 Enterprise Oversight of the Department of Housing and
4 Urban Development and the general regulatory and any
5 other authority of the Secretary of Housing and Urban
6 Development with respect to the enterprises (except as
7 specifically provided otherwise in this Act, the Federal Na-
8 tional Mortgage Association Charter Act, the Federal
9 Home Loan Mortgage Corporation Act, and any other pro-
10 vision of Federal law).

11 “(b) SAVINGS PROVISION.—The authority of the Di-
12 rector to take actions under subtitles B and C does not
13 in any way limit the general supervisory and regulatory
14 authority granted to the Director under subsection (a).”.

15 (b) PROHIBITION OF FINANCIAL INTERESTS OF DI-
16 RECTOR.—

17 (1) IN GENERAL.—Section 3(d) of the Home
18 Owners’ Loan Act (12 U.S.C. 1462a(d)) is amended
19 by inserting “, or in any enterprise, as defined in
20 section 1303 of the Federal Housing Enterprises Fi-
21 nancial Safety and Soundness Act of 1992 (12
22 U.S.C. 4502)” before the period at the end.

23 (2) APPLICABILITY.—The amendment made by
24 paragraph (1) shall apply beginning on the expira-

1 tion of the 1-year period that begins on the date of
2 the enactment of this Act.

3 **SEC. 103. DUTIES AND AUTHORITIES OF DIRECTOR.**

4 (a) IN GENERAL.—Section 1313 of the Housing and
5 Community Development Act of 1992 (12 U.S.C. 4513)
6 is amended to read as follows:

7 **“SEC. 1313. DUTIES AND AUTHORITIES OF DIRECTOR.**

8 “(a) DUTIES.—

9 “(1) PRINCIPAL DUTIES.—The principal duties
10 under this title of the Director shall be to ensure
11 that the enterprises—

12 “(A) operate in a financially safe and
13 sound manner;

14 “(B) carry out their missions in a finan-
15 cially safe and sound manner and only through
16 activities that have been authorized under, and
17 are consistent with the purposes of, the provi-
18 sions of Federal law that charter the enter-
19 prises, including as determined by the Secretary
20 of Housing and Urban Development under sec-
21 tion 1322; and

22 “(C) remain adequately capitalized.

23 “(2) OTHER DUTIES.—To the extent consistent
24 with paragraph (1), the duty of the Director shall be
25 to exercise general supervisory and regulatory au-

1 thority over the enterprises, in accordance with this
2 title, the Federal National Mortgage Association
3 Charter Act, the Federal Home Loan Mortgage Cor-
4 poration Act, and any other provisions of law.

5 “(b) AUTHORITY EXCLUSIVE OF SECRETARY.—Ex-
6 cept as specifically provided in this Act, the Federal Na-
7 tional Mortgage Association Charter Act, the Federal
8 Home Loan Mortgage Corporation Act, or any other pro-
9 vision of Federal law, the authority of the Director with
10 respect to the enterprises shall not be subject to the re-
11 view, approval, or intervention of the Secretary of the
12 Treasury.

13 “(c) DELEGATION OF AUTHORITY.—The Director
14 may delegate to officers and employees of the Director any
15 of the functions, powers, and duties of the Director, with
16 respect to supervision and regulation of the enterprises,
17 as the Director considers appropriate.”.

18 **SEC. 104. EXAMINERS AND ACCOUNTANTS.**

19 (a) EXAMINATIONS.—Section 1317 of the Housing
20 and Community Development Act of 1992 (12 U.S.C.
21 4517) is amended—

22 (1) in the second sentence of subsection (c)—
23 (A) by striking “The” and inserting “Dur-
24 ing the 3-year period that begins upon the date
25 of the enactment of the Secondary Mortgage

1 Market Enterprises Regulatory Improvement
2 Act, the”; and

3 (B) by inserting “to conduct examinations
4 under this section” before the period; and
5 (2) in subsection (d)—

6 (A) by inserting “, with respect to the en-
7 terprises,” after “penalties”; and

8 (B) by striking “Federal Reserve banks”
9 and inserting “Director, with respect to exami-
10 nations of savings associations”.

11 (b) ENHANCED AUTHORITY TO HIRE EXAMINERS
12 AND ACCOUNTANTS.—Section 1317 of the Housing and
13 Community Development Act of 1992 (12 U.S.C. 4517)
14 is amended by adding at the end the following new sub-
15 section:

16 “(g) APPOINTMENT OF ACCOUNTANTS, ECONOMISTS,
17 AND EXAMINERS.—

18 “(1) APPLICABILITY.—This section applies with
19 respect to any position of examiner, accountant, and
20 economist at the Office, with respect to supervision
21 and regulation of the enterprises, that is in the com-
22 petitive service.

23 “(2) APPOINTMENT AUTHORITY.—

1 “(A) IN GENERAL.—The Director may ap-
2 point candidates to any position described in
3 paragraph (1)—

4 “(i) in accordance with the statutes,
5 rules, and regulations governing appoint-
6 ments in the excepted service; and

7 “(ii) notwithstanding any statutes,
8 rules, and regulations governing appoint-
9 ments in the competitive service.

10 “(B) RULE OF CONSTRUCTION.—The ap-
11 pointment of a candidate to a position under
12 authority of this paragraph shall not be consid-
13 ered to cause such position to be converted
14 from the competitive service to the excepted
15 service.

16 “(3) REPORTS.—No later than 90 days after
17 the end of fiscal year 2003 (for fiscal year 2003)
18 and 90 days after the end of fiscal year 2005 (for
19 fiscal years 2004 and 2005), the Director shall sub-
20 mit a report with respect to its exercise of the au-
21 thority granted by paragraph (2) during such fiscal
22 years to the Committee on Government Reform and
23 the Committee on Financial Services of the House of
24 Representatives and the Committee on Govern-
25 mental Affairs and the Committee on Banking,

1 Housing, and Urban Affairs of the Senate. Such re-
2 ports shall describe the changes in the hiring process
3 authorized by such paragraph, including relevant in-
4 formation related to—

5 “(A) the quality of candidates;

6 “(B) the procedures used by the Director
7 to select candidates through the streamlined
8 hiring process;

9 “(C) the numbers, types, and grades of
10 employees hired under the authority;

11 “(D) any benefits or shortcomings associ-
12 ated with the use of the authority;

13 “(E) the effect of the exercise of the au-
14 thority on the hiring of veterans and other de-
15 mographic groups; and

16 “(F) the way in which managers were
17 trained in the administration of the streamlined
18 hiring system.”.

19 **SEC. 105. REGULATIONS.**

20 Section 1319G of the Housing and Community De-
21 velopment Act of 1992 (12 U.S.C. 4526) is amended—

22 (1) by striking subsection (a) and inserting the
23 following new subsection:

24 “(a) **AUTHORITY.**—The Director shall issue any reg-
25 ulations and orders necessary to carry out the duties of

1 the Director, with respect to supervision and regulation
 2 of the enterprises, under this title, the Federal National
 3 Mortgage Association Charter Act, and the Federal Home
 4 Loan Mortgage Corporation Act, and to ensure that the
 5 purposes of this title and such Acts are accomplished.”;
 6 and

7 (2) in subsection (c), by striking “Committee on
 8 Banking, Finance and Urban Affairs” and inserting
 9 “Committee on Financial Services”.

10 **SEC. 106. ASSESSMENTS.**

11 Section 1316 of the Housing and Community Devel-
 12 opment Act of 1992 (12 U.S.C. 4516) is amended—

13 (1) by striking subsection (a) and inserting the
 14 following new subsection:

15 “(a) ANNUAL ASSESSMENTS.—

16 “(1) DIRECTOR.—The Director shall establish
 17 and collect from the enterprises annual assessments
 18 in an amount not exceeding the amount sufficient to
 19 provide for reasonable costs and expenses of the Di-
 20 rector, with respect to regulation and supervision of
 21 the enterprises, including the expenses of any exami-
 22 nations under section 1317 and the expenses of ob-
 23 taining any reviews and credit assessments under
 24 subsection section 1319.

1 “(2) SECRETARY OF HUD.—The Secretary of
2 Housing and Urban Development shall establish and
3 collect from the enterprises annual assessments in
4 an amount not exceeding the amount sufficient to
5 provide for reasonable costs and expenses of the De-
6 partment of Housing and Urban Development in
7 carrying out the responsibilities of the Secretary of
8 Housing and Urban Development under this sub-
9 title, the Federal National Mortgage Association
10 Charter Act, and the Federal Home Loan Mortgage
11 Corporation Act.”;

12 (2) in subsection (b)—

13 (A) in paragraph (1)—

14 (i) by inserting “and to the Secretary
15 of Housing and Urban Development” after
16 “Director”;

17 (ii) by inserting “paragraph (1) and
18 (2), respectively, of” before “subsection
19 (a)”;

20 (iii) by inserting “under such para-
21 graph” after “total annual assessment”;
22 and

23 (B) in paragraph (2)—

24 (i) by striking “The annual assess-
25 ment” and inserting “Each of the annual

1 assessments pursuant to paragraphs (1)
2 and (2) of subsection (a)”; and

3 (ii) by realigning paragraph (2) two
4 ems from the left margin, so as to align
5 the left margin of such paragraph with the
6 left margins of paragraphs (1) and (3);

7 (3) in subsection (c)—

8 (A) by inserting “for an assessment under
9 subsection (a)(1) that are” after “The semi-
10 annual payments”; and

11 (B) by adding at the end the following new
12 sentence: “The Director may adjust the
13 amounts of any semiannual assessments for an
14 assessment under subsection (a)(1) that are to
15 be paid pursuant to subsection (b) by an enter-
16 prise, as necessary in the discretion of the Di-
17 rector, to ensure that the costs of enforcement
18 activities under subtitles B and C for an enter-
19 prise are borne only by that enterprise.”;

20 (4) in subsection (d)—

21 (A) by inserting “by the Director or by the
22 Secretary of Housing and Urban Development”
23 before “from an enterprise”; and

1 (B) by inserting “by the Director or by the
2 Secretary of Housing and Urban Development,
3 as applicable,” before “for the following year”;
4 (5) in subsection (f), by striking the last sen-
5 tence and inserting the following new sentence:
6 “Notwithstanding any other provision of law, any
7 assessments collected by the Director pursuant to
8 this section shall be deposited in the Fund in an ac-
9 count for the Director and any amounts collected by
10 the Secretary of Housing and Urban Development
11 shall be deposited in the Fund in an account for
12 such Secretary. Any amounts in the Fund are here-
13 by made available, without fiscal year limitation, to
14 the Director (to the extent of amounts in the Direc-
15 tor’s account) and to the Secretary of Housing and
16 Urban Development (to the extent of amounts in the
17 Secretary’s account) for carrying out the supervisory
18 and regulatory responsibilities of the Director and
19 the Secretary, respectively, with respect to the enter-
20 prises, including any necessary administrative and
21 nonadministrative expenses of the Director and Sec-
22 retary, respectively, in carrying out the purposes of
23 this title, the Federal National Mortgage Association
24 Charter Act, and the Federal Home Loan Mortgage
25 Corporation Act.”; and

1 (6) in subsection (g)—

2 (A) by striking paragraphs (1) and (2) and
3 inserting the following new paragraphs:

4 “(1) FINANCIAL OPERATING PLANS AND FORE-
5 CASTS.—Before the beginning of each fiscal year—

6 “(A) the Director shall submit a copy of
7 the financial operating plans and forecasts for
8 the Director, with respect to regulation and su-
9 pervision of the enterprises, to the Director of
10 the Office of Management and Budget; and

11 “(B) the Secretary of Housing and Urban
12 Development shall submit, to the Director, a
13 copy of the financial operating plans and fore-
14 casts for the Department of Housing and
15 Urban Development, with respect to responsibil-
16 ities and activities of the Secretary under this
17 title.

18 “(2) REPORTS OF OPERATIONS.—As soon as
19 practicable after the end of each fiscal year and each
20 quarter thereof—

21 “(A) the Director shall submit a copy of
22 the report of the results of the operations of the
23 Director, with respect to regulation and super-
24 vision of the enterprises, during such period to

1 the Director of the Office of Management and
 2 Budget; and

3 “(B) the Secretary of Housing and Urban
 4 Development shall submit, to the Director, a re-
 5 port of the results of the operations of the De-
 6 partment of Housing and Urban Development,
 7 with respect to responsibilities and activities of
 8 the Secretary under this title.”; and

9 (B) in paragraph (3)—

10 (i) by striking “(A)”;

11 (ii) by striking “, and (B)” and in-
 12 serting the following: “. The annual plans,
 13 forecasts, and reports required under para-
 14 graphs (1)(B) and (2)(B) shall be in-
 15 cluded”; and

16 (iii) by inserting “of Housing and
 17 Urban Development” before the period at
 18 the end.

19 **SEC. 107. AUTHORITY OF SECRETARY OF HUD FOR NEW AC-**
 20 **TIVITIES, HOUSING INFORMATION, AND**
 21 **HOUSING GOALS.**

22 (a) IN GENERAL.—Part 2 of subtitle A of title XIII
 23 of the Housing and Community Development Act of 1992
 24 is amended—

1 (1) by striking the heading for the part and the
 2 heading for subpart A and inserting the following:

3 **“PART 2—NEW ACTIVITIES, HOUSING**
 4 **INFORMATION, AND HOUSING GOALS**
 5 **“Subpart A—New Activities and Housing**
 6 **Information”;**

7 and

8 (2) by striking section 1321 (12 U.S.C. 4541).

9 (b) RETENTION OF FAIR HOUSING RESPONSIBIL-
 10 ITIES.—Section 1325 of the Housing and Community De-
 11 velopment Act of 1992 (12 U.S.C. 4545) is amended, in
 12 the matter preceding paragraph (1), by inserting “of
 13 Housing and Urban Development” after “The Secretary”.

14 (c) RETENTION OF AUTHORITY TO ESTABLISH AND
 15 ENFORCE HOUSING GOALS.—Part 2 of subtitle A of the
 16 Housing and Community Development Act of 1992 is
 17 amended—

18 (1) by inserting “of Housing and Urban Devel-
 19 opment (in this subpart referred to as the ‘Sec-
 20 retary’)” after “The Secretary”, each place such
 21 term appears in—

22 (A) the first sentence of section 1331(a)
 23 (12 U.S.C. 4561(a)); and

24 (B) section 1341(a) (12 U.S.C. 4581(a));

1 (2) in section 1332 (12 U.S.C. 4562), by strik-
2 ing subsection (d);

3 (3) in section 1333 (12 U.S.C. 4563), by strik-
4 ing subsection (d);

5 (4) in section 1334 (12 U.S.C. 4564), by strik-
6 ing subsection (d);

7 (5) in section 1336 (12 U.S.C. 4566)—

8 (A) in subsection (b)(3)(C), by inserting
9 “the Director,” after “notice to the enter-
10 prise,”; and

11 (B) in subsection (c)(5), by inserting “,
12 and to the Director,” after “housing plan”;

13 (6) by striking sections 1337 and 1338 (12
14 U.S.C. 4567, 4562 note);

15 (7) in section 1341(b)(1) (12 U.S.C.
16 4581(b)(1)), by inserting after the period at the end
17 the following new sentence: “Immediately upon
18 issuing and serving a notice of charges under this
19 section, the Secretary shall submit a copy of such
20 notice to the Director.”;

21 (8) in section 1345 (12 U.S.C. 4585)—

22 (A) in subsection (c)(1)(A), by inserting
23 “and the Director” after “enterprise”; and

24 (B) in subsection (d), by inserting “, upon
25 notification to the Director,” after “1343”; and

1 (9) in section 1346(a) (12 U.S.C. 4586(a)), in
2 the matter preceding paragraph (1), by inserting
3 “and to the Director” after “the public”.

4 (d) RETENTION OF ANNUAL HOUSING REPORT RE-
5 SPONSIBILITY.—Section 1324 of the Housing and Com-
6 munity Development Act of 1992 (12 U.S.C. 4544) is
7 amended—

8 (1) by inserting “of Housing and Urban Devel-
9 opment” after “the Secretary” each place such term
10 appears; and

11 (2) in subsection (a), by striking “, as part of
12 the annual report under section 1328(a) of this
13 title,”.

14 (e) AUTHORITY OF SECRETARY TO ENFORCE NO-
15 TICES AND ORDERS.—Section 1344 of the Housing and
16 Community Development Act of 1992 (12 U.S.C. 4584)
17 is amended by striking subsection (a) and inserting the
18 following new subsection:

19 “(a) ENFORCEMENT.—The Secretary of Housing and
20 Urban Development may, in the discretion of such Sec-
21 retary, apply to the United States District Court for the
22 District of Columbia, or the United States district court
23 within the jurisdiction of which the headquarters of the
24 enterprise is located, for the enforcement of any effective
25 and outstanding notice or order issued under section 1341

1 or 1345, or request that the Attorney General of the
 2 United States bring such an action. Such court shall have
 3 jurisdiction and power to order and require compliance
 4 with such notice or order.”.

5 (f) REGULATORY AUTHORITY.—Subpart A of part 2
 6 of subtitle A of title XIII of the Housing and Community
 7 Development Act of 1992 (12 U.S.C. 4541 et seq.) is
 8 amended by adding at the end the following new section:
 9 **“SEC. 1329. AUTHORITY OF SECRETARY OF HUD TO ISSUE**
 10 **REGULATIONS.**

11 “The Secretary of Housing and Urban Development
 12 shall issue any regulations as are necessary to carry out
 13 the responsibilities of the Secretary under this subtitle.”.

14 **SEC. 108. PRIOR APPROVAL OF SECRETARY OF HUD FOR**
 15 **NEW ACTIVITIES.**

16 (a) IN GENERAL.—Section 1322 of the Housing and
 17 Community Development Act of 1992 (12 U.S.C. 4542)
 18 is amended to read as follows:

19 **“SEC. 1322. PRIOR APPROVAL AUTHORITY FOR NEW ACTIVI-**
 20 **TIES.**

21 “(a) AUTHORITY.—The Secretary of Housing and
 22 Urban Development shall have the authority to approve
 23 all new activities, and to review all ongoing activities, of
 24 an enterprise to ensure compliance with the Federal Na-

1 tional Mortgage Association Charter Act or the Federal
2 Home Loan Mortgage Corporation Act, as applicable.

3 “(b) REQUIREMENT FOR PRIOR APPROVAL.—An en-
4 terprise may not commence any new activity before obtain-
5 ing the approval of the Secretary of Housing and Urban
6 Development for the new activity, in accordance with this
7 section.

8 “(c) STANDARD FOR APPROVAL.—The Secretary of
9 Housing and Urban Development may approve a new ac-
10 tivity of an enterprise only if—

11 “(1) the new activity is authorized—

12 “(A) with respect to the Federal National
13 Mortgage Association, under the Federal Na-
14 tional Mortgage Association Charter Act or
15 other Federal law; and

16 “(B) with respect to the Federal Home
17 Loan Mortgage Corporation, under the Federal
18 Home Loan Mortgage Corporation Act or other
19 Federal law;

20 “(2) the Secretary of Housing and Urban De-
21 velopment determines, after consultation with the
22 Director, that the enterprise can conduct the new
23 activity in a safe and sound manner; and

1 “(3) the Secretary of Housing and Urban De-
2 velopment determines that the new activity is in the
3 public interest.

4 “(d) PROCEDURE FOR APPROVAL.—The Secretary of
5 Housing and Urban Development shall, by regulation, es-
6 tablish procedures for the enterprises to obtain the ap-
7 proval of the Secretary of Housing and Urban Develop-
8 ment for purposes of subsection (b).”.

9 (b) DEFINITION OF NEW ACTIVITY.—Paragraph
10 (13) of section 1303 of the Housing and Community De-
11 velopment Act of 1992 (12 U.S.C. 4502(13)) is amended
12 to read as follows:

13 “(13) NEW ACTIVITY.—The term ‘new activity’
14 means, with respect to the enterprises, any program,
15 activity, business process, or investment that directly
16 or indirectly provides financing or other services re-
17 lated to conventional mortgages (including pur-
18 chasing, servicing, selling, and lending on the secu-
19 rity of such mortgages) that—

20 “(A) is significantly different from pro-
21 grams, activities, business processes, or invest-
22 ments that (i) have been approved under this
23 Act, or (ii) were approved or engaged in by an
24 enterprise before the date of the enactment of

1 the Housing and Community Development Act
2 of 1992; or

3 “(B) represents an expansion, in terms of
4 the dollar volume or number of mortgages or
5 securities involved, of programs above limits ex-
6 pressly contained in any prior approval.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) FANNIE MAE.—Section 302(b)(6) of the
9 Federal National Mortgage Association Charter Act
10 (12 U.S.C. 1717(b)(6)) is amended by striking “pro-
11 gram” and inserting “activity”.

12 (2) FREDDIE MAC.—Section 305(c) of the Fed-
13 eral Home Loan Mortgage Corporation Act (12
14 U.S.C. 1454(c)) is amended by striking “program”
15 and inserting “activity”.

16 (3) 1992 ACT.—Section 1369C(a)(4) of the
17 Housing and Community Development Act of 1992
18 (12 U.S.C. 4622(a)(4)) is amended by striking “pro-
19 grams” and inserting “activities”.

20 **SEC. 109. LIMITATION ON NONMISSION-RELATED ASSETS.**

21 Subtitle B of title XIII of the Housing and Commu-
22 nity Development Act of 1992 (12 U.S.C. 4611 et seq.)
23 is amended—

24 (1) by striking the subtitle designation and
25 heading and inserting the following:

1 **“Subtitle B—Required Capital Lev-**
 2 **els for Enterprises, Special En-**
 3 **forcement Powers, and Limita-**
 4 **tion on Nonmission-Related As-**
 5 **sets”;**

6 and

7 (2) by adding at the end the following new sec-
 8 tion:

9 **“SEC. 1369E. LIMITATION ON NONMISSION-RELATED AS-**
 10 **SETS.**

11 “(a) IN GENERAL.—The Secretary of Housing and
 12 Urban Development shall, by regulation, limit the nonmis-
 13 sion-related assets that an enterprise may hold at any
 14 time. The Secretary of Housing and Urban Development
 15 shall define the term ‘nonmission-related asset’ for pur-
 16 poses of this section.

17 “(b) RULE OF CONSTRUCTION.—Subsection (a) may
 18 not be construed to authorize an enterprise to engage in
 19 any new activity (as such term is defined in section 1303)
 20 relating to any nonmission-related asset without obtaining
 21 the prior approval of the Secretary of Housing and Urban
 22 Development in accordance with section 1322.”.

23 **SEC. 110. CONFORMING LOAN LIMITS.**

24 (a) FANNIE MAE.—Section 302(b)(2) of the Federal
 25 National Mortgage Association Charter Act (12 U.S.C.

1 1717(b)(2)) is amended by striking the 7th and 8th sen-
2 tences and inserting the following new sentences: “Such
3 limitations shall not exceed \$275,000 for a mortgage se-
4 cured by a single-family residence, \$351,950 for a mort-
5 gage secured by a 2-family residence, \$425,400 for a
6 mortgage secured by a 3-family residence, and \$528,700
7 for a mortgage secured by a 4-family residence, except
8 that such maximum limitations shall be adjusted effective
9 January 1 of each year beginning with 2002, subject to
10 the limitations in this paragraph. Each adjustment shall
11 be made by adding to or subtracting from each such
12 amount (as it may have been previously adjusted) a per-
13 centage thereof equal to the percentage increase or de-
14 crease during the 12-month period ending with the pre-
15 vious October in the housing price index maintained by
16 the Director of the Office of Housing Finance Supervision
17 (pursuant to section 1321 of the Housing and Community
18 Development Act of 1992 (12 U.S.C. 4541)).”.

19 (b) FREDDIE MAC.—Section 305(a)(2) of the Fed-
20 eral National Mortgage Association Charter Act (12
21 U.S.C. 1454(a)(2)) is amended by striking the 6th and
22 7th sentences and inserting the following new sentences:
23 “Such limitations shall not exceed \$275,000 for a mort-
24 gage secured by a single-family residence, \$351,950 for
25 a mortgage secured by a 2-family residence, \$425,400 for

1 a mortgage secured by a 3-family residence, and \$528,700
 2 for a mortgage secured by a 4-family residence, except
 3 that such maximum limitations shall be adjusted effective
 4 January 1 of each year beginning with 2002, subject to
 5 the limitations in this paragraph. Each adjustment shall
 6 be made by adding to or subtracting from each such
 7 amount (as it may have been previously adjusted) a per-
 8 centage thereof equal to the percentage increase or de-
 9 crease during the 12-month period ending with the pre-
 10 vious October in the housing price index maintained by
 11 the Director of the Office of Housing Finance Supervision
 12 (pursuant to section 1321 of the Housing and Community
 13 Development Act of 1992 (12 U.S.C. 4541)).”.

14 (c) HOUSING PRICE INDEX.—Subpart A of part 2 of
 15 subtitle A of title XIII of the Housing and Community
 16 Development Act of 1992 (as amended by the preceding
 17 provisions of this Act) is amended by inserting before sec-
 18 tion 1322 (12 U.S.C. 4542) the following new section:

19 **“SEC. 1321. HOUSING PRICE INDEX.**

20 “The Director shall establish and maintain a method
 21 of assessing the national average 1-family house price for
 22 use for adjusting the conforming loan limitations of the
 23 enterprises (as such term is defined in section 1303 of
 24 Federal Housing Enterprises Financial Safety and Sound-
 25 ness Act of 1992). In establishing such method, the Direc-

1 tor shall take into consideration the monthly survey of all
 2 major lenders conducted by the Federal Housing Finance
 3 Board to determine the national average 1-family house
 4 price, the House Price Index maintained by the Office of
 5 Federal Housing Enterprise Oversight of the Department
 6 of Housing and Urban Development before the effective
 7 date of the Secondary Mortgage Market Enterprises Reg-
 8 ulatory Improvement Act, any appropriate house price in-
 9 dexes of the Bureau of the Census of the Department of
 10 Commerce, and any other indexes or measures that the
 11 Director considers appropriate.”.

12 **SEC. 111. PUBLIC DISCLOSURE OF INFORMATION.**

13 Section 1314 of the Housing and Community Devel-
 14 opment Act of 1992 (12 U.S.C. 4514) is amended—

15 (1) in the section heading by striking “**BY EN-**
 16 **TERPRISES**” and inserting “**AND INFORMATION**”;
 17 and

18 (2) by adding at the end the following new sub-
 19 section:

20 “(c) **PUBLIC DISCLOSURE OF INFORMATION.**—The
 21 Director shall, by regulation, require each enterprise to
 22 disclose to the public, on not less than an annual basis,
 23 such financial, business, and other information that the
 24 Director determines would be in the public interest.”.

1 **SEC. 112. REVIEWS OF ENTERPRISES.**

2 Section 1319 of the Housing and Community Devel-
3 opment Act of 1992 (12 U.S.C. 4519) is amended—

4 (1) in the section heading—

5 (A) by striking “**AUTHORITY TO PRO-**
6 **VIDE FOR**”; and

7 (B) in the section heading, by striking “**BY**
8 **RATING ORGANIZATION**”;

9 (2) by inserting after “any entity” the fol-
10 lowing: “that the Director considers appropriate, in-
11 cluding an entity”;

12 (3) by inserting “(a) **AUTHORITY TO PROVIDE**
13 **FOR REVIEWS.—**” before “The”; and

14 (4) by adding at the end the following new sub-
15 section:

16 “(b) **BIENNIAL DETERMINATION OF CREDIT RAT-**
17 **ING.—**

18 “(1) **IN GENERAL.—**On a biennial basis, the Di-
19 rector shall provide for 2 entities effectively recog-
20 nized by the Division of Market Regulation of the
21 Securities and Exchange Commission as nationally
22 recognized statistical rating organizations for the
23 purposes of the capital rules for broker dealers, each
24 to conduct an assessment of the financial condition
25 of each enterprise for the purpose of determining the
26 level of risk that the enterprise will be unable to

1 meet its obligations, taking into consideration the
2 legal status evidenced by the statements required
3 under—

4 “(A) the penultimate sentence of section
5 304(b) of the Federal National Mortgage Asso-
6 ciation Charter Act (12 U.S.C. 1719(b));

7 “(B) the last sentence of section 304(d) of
8 the Federal National Mortgage Association
9 Charter Act (12 U.S.C. 1719(d));

10 “(C) the penultimate sentence of section
11 304(e) of the Federal National Mortgage Asso-
12 ciation Charter Act (12 U.S.C. 1719(e)); and

13 “(D) section 306(h)(2) of the Federal
14 Home Loan Mortgage Corporation Act (12
15 U.S.C. 1455(h)(2)).

16 “(2) CREDIT RATING.—The assessment shall
17 include assigning a credit rating for each enterprise
18 using a scale similar to that used by such organiza-
19 tion with respect to obligations of other financial in-
20 stitutions, and shall include the report regarding
21 such assessment and the rating in the report of the
22 Director under section 1319B(a).”.

23 **SEC. 113. RISK-BASED CAPITAL TEST FOR ENTERPRISES.**

24 Section 1361 of the Housing and Community Devel-
25 opment Act of 1992 (12 U.S.C. 4611) is amended—

1 (1) in subsection (a)(2)(A), by inserting “or
 2 change in such other manner as the Director con-
 3 siderers appropriate,” after “subparagraph (C),”;

4 (2) in subsection (b)(1), by inserting after the
 5 period at the end the following: “Notwithstanding
 6 subsection (a), the Director may, in the sole discre-
 7 tion of the Director, make any assumptions that the
 8 Director considers appropriate regarding interest
 9 rates, home prices, and new business.”; and

10 (3) in subsection (c)(2), by inserting “or such
 11 other percentage as the Director considers appro-
 12 priate” before the period at the end.

13 **SEC. 114. MINIMUM AND CRITICAL CAPITAL LEVELS.**

14 (a) MINIMUM CAPITAL LEVEL.—Section 1362 of the
 15 Housing and Community Development Act of 1992 (12
 16 U.S.C. 4612) is amended—

17 (1) by striking subsection (b);

18 (2) by striking “(a) IN GENERAL.—”; and

19 (3) in the matter preceding paragraph (1), by
 20 inserting before “the sum of” the following: “the
 21 amount established by the Director, by regulation or
 22 order, as such amount may be adjusted from time-
 23 to-time by the Director to achieve the purposes of
 24 this title, that is not less than”.

1 (b) CRITICAL CAPITAL LEVEL.—Section 1363 of the
 2 Housing and Community Development Act of 1992 (12
 3 U.S.C. 4613) is amended, in the matter preceding para-
 4 graph (1), by inserting before “the sum of” the following:
 5 “the amount established by the Director, by regulation or
 6 order, as such amount may be adjusted from time-to-time
 7 by the Director to achieve the purposes of this title, that
 8 is not less than”.

9 **SEC. 115. REQUIREMENTS TO ENHANCE CAPITAL**
 10 **STRENGTH, DISCLOSURE, AND MARKET DIS-**
 11 **CIPLINE.**

12 Section 1361 of the Housing and Community Devel-
 13 opment Act of 1992 (12 U.S.C. 4611) is amended by add-
 14 ing at the end the following new subsection:

15 “(g) REQUIRED IMPLEMENTATION OF AGREE-
 16 MENT.—The Director shall, by regulation, require each
 17 enterprise—

18 “(1) to issue subordinated debt of such type
 19 and in such amount as the Director considers nec-
 20 essary;

21 “(2) to maintain appropriate levels of liquidity;

22 “(3) to obtain and disclose an annual credit
 23 rating;

24 “(4) to publicly disclose interest rate risk; and

25 “(5) to publicly disclose credit risk.

1 **SEC. 116. DEFINITIONS.**

2 Section 1303 of the Housing and Community Devel-
3 opment Act of 1992 (12 U.S.C. 4502) is amended—

4 (1) in paragraph (5), by striking “Federal
5 Housing Enterprise Oversight of the Department of
6 Housing and Urban Development” and inserting
7 “Housing Finance Supervision”;

8 (2) in paragraphs (8), (9), (10), and (19), by
9 inserting “of Housing and Urban Development”
10 after “Secretary” each place such term appears;

11 (3) in paragraph (14), by striking “Federal
12 Housing Enterprise Oversight of the Department of
13 Housing and Urban Development” and inserting
14 “Housing Finance Supervision”;

15 (4) by striking paragraph (15);

16 (5) by redesignating paragraphs (7) through
17 (14) (as amended by the preceding provisions of this
18 Act) as paragraphs (8) through (15), respectively;
19 and

20 (6) by inserting after paragraph (6) the fol-
21 lowing new paragraph:

22 “(7) ENTERPRISE-AFFILIATED PARTY.—The
23 term ‘enterprise-affiliated party’ means—

24 “(A) any director, officer, employee, or
25 controlling stockholder of, or agent for, an en-
26 terprise;

1 “(B) any shareholder, consultant, joint
2 venture partner, and any other person as deter-
3 mined by the Director (by regulation or case-
4 by-case) who participates in the conduct of the
5 affairs of an enterprise; and

6 “(C) any independent contractor (including
7 any attorney, appraiser, or accountant) who
8 knowingly or recklessly participates in—

9 “(i) any violation of any law or regu-
10 lation;

11 “(ii) any breach of fiduciary duty; or

12 “(iii) any unsafe or unsound practice,
13 which caused or is likely to cause more than a
14 minimal financial loss to, or a significant ad-
15 verse effect on, the enterprise.”.

16 **Subtitle B—Prompt Corrective** 17 **Action**

18 **SEC. 131. CAPITAL CLASSIFICATIONS.**

19 Section 1364 of the Housing and Community Devel-
20 opment Act of 1992 (12 U.S.C. 4614) is amended—

21 (1) by striking subsection (b) and inserting the
22 following new subsection:

23 “(b) DISCRETIONARY CLASSIFICATION.—

1 “(1) GROUNDS FOR RECLASSIFICATION.—The
2 Director may reclassify an enterprise under para-
3 graph (2) if—

4 “(A) at any time, the Director determines
5 in writing that an enterprise is engaging in con-
6 duct that could result in a rapid depletion of
7 core capital or that the value of the property
8 subject to mortgages held or securitized by the
9 enterprise has decreased significantly;

10 “(B) after notice and an opportunity for
11 hearing, the Director determines that an enter-
12 prise is in an unsafe or unsound condition; or

13 “(C) pursuant to section 1371(b), the Di-
14 rector deems an enterprise to be engaging in an
15 unsafe or unsound practice.

16 “(2) RECLASSIFICATION.—In addition to any
17 other action authorized under this title, including
18 the reclassification of an enterprise for any reason
19 not specified in this subsection, if the Director takes
20 any action described in paragraph (1) the Director
21 may classify an enterprise—

22 “(A) as undercapitalized, if the enterprise
23 is otherwise classified as adequately capitalized;

1 “(B) as significantly undercapitalized, if
2 the enterprise is otherwise classified as under-
3 capitalized; and

4 “(C) as critically undercapitalized, if the
5 enterprise is otherwise classified as significantly
6 undercapitalized.”;

7 (2) by redesignating subsection (d) as sub-
8 section (e); and

9 (3) by inserting after subsection (c) the fol-
10 lowing new subsection:

11 “(d) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

12 “(1) IN GENERAL.—An enterprise shall make
13 no capital distribution if, after making the distribu-
14 tion, the enterprise would be undercapitalized.

15 “(2) EXCEPTION.—Notwithstanding paragraph
16 (1), the Director may permit an enterprise to repur-
17 chase, redeem, retire, or otherwise acquire shares or
18 ownership interests if the repurchase, redemption,
19 retirement, or other acquisition—

20 “(A) is made in connection with the
21 issuance of additional shares or obligations of
22 the enterprise in at least an equivalent amount;
23 and

1 “(B) will reduce the financial obligations of
 2 the enterprise or otherwise improve the finan-
 3 cial condition of the enterprise.”.

4 **SEC. 132. SUPERVISORY ACTIONS APPLICABLE TO UNDER-**
 5 **CAPITALIZED ENTERPRISES.**

6 (a) EFFECTIVE DATE FOR SUPERVISORY ACTIONS.—
 7 Section 1365(c) of the Housing and Community Develop-
 8 ment Act of 1992 (12 U.S.C. 4615(c)) is amended by
 9 striking “1-year” and inserting “6-month”.

10 (b) SUPERVISORY ACTIONS.—Section 1365 of the
 11 Housing and Community Development Act of 1992 (12
 12 U.S.C. 4615) is amended—

13 (1) in subsection (a)—

14 (A) by redesignating paragraphs (1) and
 15 (2) as paragraphs (2) and (3), respectively;

16 (B) by inserting before paragraph (2) the
 17 following paragraph:

18 “(1) REQUIRED MONITORING.—The Director
 19 shall—

20 “(A) closely monitor the condition of any
 21 undercapitalized enterprise;

22 “(B) closely monitor compliance with the
 23 capital restoration plan, restrictions, and re-
 24 quirements imposed under this section; and

1 “(C) periodically review the plan, restric-
2 tions, and requirements applicable to the under-
3 capitalized enterprise to determine whether the
4 plan, restrictions, and requirements are achiev-
5 ing the purpose of this section.”; and

6 (C) by inserting at the end the following
7 new paragraphs:

8 “(4) RESTRICTION OF ASSET GROWTH.—An
9 undercapitalized enterprise shall not permit its aver-
10 age total assets during any calendar quarter to ex-
11 ceed its average total assets during the preceding
12 calendar quarter unless—

13 “(A) the Board has accepted the enter-
14 prise’s capital restoration plan;

15 “(B) any increase in total assets is con-
16 sistent with the plan; and

17 “(C) the enterprise’s ratio of tangible eq-
18 uity to assets increases during the calendar
19 quarter at a rate sufficient to enable the enter-
20 prise to become adequately capitalized within a
21 reasonable time.

22 “(5) PRIOR APPROVAL OF ACQUISITIONS AND
23 ISSUANCE OF NEW PRODUCTS.—An undercapitalized
24 enterprise shall not, directly or indirectly, acquire

1 any interest in any entity or issue a new product
2 unless—

3 “(A) the Director has accepted the enter-
4 prise’s capital restoration plan, the enterprise is
5 implementing the plan, and the Director deter-
6 mines that the proposed action is consistent
7 with and will further the achievement of the
8 plan; or

9 “(B) the Director determines that the pro-
10 posed action will further the purpose of this
11 section.”; and

12 (2) in the subsection heading for subsection (b),
13 by striking “FROM UNDERCAPITALIZED TO SIGNIFI-
14 CANTLY UNDERCAPITALIZED”;

15 (3) by redesignating subsection (c) (as amended
16 by subsection (a) of this section) as subsection (d);
17 and

18 (4) by inserting after subsection (b) the fol-
19 lowing new subsection:

20 “(c) OTHER DISCRETIONARY SAFEGUARDS.—The
21 Director may take, with respect to an undercapitalized en-
22 terprise, any of the actions authorized to be taken under
23 section 1366 with respect to a significantly undercapital-
24 ized enterprise, if the Director determines that such ac-

1 tions are necessary to carry out the purpose of this sub-
 2 title.”.

3 **SEC. 133. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFI-**
 4 **CANTLY UNDERCAPITALIZED ENTERPRISES.**

5 Section 1366 of the Housing and Community Devel-
 6 opment Act of 1992 (12 U.S.C. 4616) is amended—

7 (1) in subsection (b)—

8 (A) in the subsection heading, by striking
 9 “DISCRETIONARY SUPERVISORY ACTIONS” and
 10 inserting “SPECIFIC ACTIONS”;

11 (B) in the matter preceding paragraph (1),
 12 by striking “may, at any time, take any” and
 13 inserting “shall carry out this section by taking,
 14 at any time, 1 or more”;

15 (C) by redesignating paragraphs (5) and
 16 (6) as paragraphs (6) and (7), respectively;

17 (D) by inserting after paragraph (4) the
 18 following new paragraph:

19 “(5) IMPROVEMENT OF MANAGEMENT.—Take
 20 one or more of the following actions:

21 “(A) NEW ELECTION OF BOARD.—Order a
 22 new election for the board of directors of the
 23 enterprise.

24 “(B) DISMISSAL OF DIRECTORS OR EXECU-
 25 TIVE OFFICERS.—Require the enterprise to dis-

miss from office any director or executive officer who had held office for more than 180 days immediately before the enterprise became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the Director's enforcement powers provided in section 1377.

“(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the enterprise to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director).”; and

(E) by inserting at the end the following new paragraph:

“(8) OTHER ACTION.—Require the enterprise to take any other action that the Director determines will better carry out the purpose of this section than any of the actions specified in this paragraph.”;

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

“(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—An enterprise that is classified as sig-

1 nificantly undercapitalized may not, without prior written
2 approval by the Director—

3 “(A) pay any bonus to any executive offi-
4 cer; or

5 “(B) provide compensation to any execu-
6 tive officer at a rate exceeding that officer’s av-
7 erage rate of compensation (excluding bonuses,
8 stock options, and profit sharing) during the 12
9 calendar months preceding the calendar month
10 in which the enterprise became undercapital-
11 ized.”.

12 **SEC. 134. AUTHORITY OVER CRITICALLY UNDERCAPITAL-**
13 **IZED ENTERPRISES.**

14 Section 1368 of the Housing and Community Devel-
15 opment Act of 1992 (12 U.S.C. 4618) is amended to read
16 as follows:

17 **“SEC. 1368. APPOINTMENT OF RECEIVERS.**

18 “(a) APPOINTMENT.—

19 “(1) AUTHORITY.—Upon a determination that
20 an enterprise is critically undercapitalized and a de-
21 termination that the enterprise meets such other
22 conditions for taking action pursuant to this sub-
23 section as the Director shall by regulation establish,
24 the Director may, notwithstanding section
25 1367(a)(1), appoint a receiver for the enterprise in

1 accordance with this section and in lieu of appoint-
2 ment of a conservator pursuant to section 1367. If
3 the Director takes action pursuant to this sub-
4 section, the Director shall appoint the receiver not
5 later than 30 days after providing notice under
6 paragraph (2) of this subsection.

7 “(2) NOTICE.—Upon making a determination
8 under paragraph (1) to appoint a receiver for an en-
9 terprise, the Director shall provide written notice to
10 the enterprise, the Committee on Financial Services
11 of the House of Representatives, and the Committee
12 on Banking, Housing, and Urban Affairs of the Sen-
13 ate—

14 “(A) that a receiver will be appointed for
15 the enterprise;

16 “(B) stating the reasons for the appoint-
17 ment of the receiver; and

18 “(C) identifying the person or govern-
19 mental agency that the Director intends to ap-
20 point as a receiver.

21 “(3) QUALIFICATIONS.—The receiver shall be—

22 “(A) the Director or any other govern-
23 mental agency; or

24 “(B) any person that—

1 “(i) has no claim against, or financial
2 interest in, the enterprise or other basis for
3 a conflict of interest; and

4 “(ii) has the financial and manage-
5 ment expertise necessary to carry out the
6 duties under subsection (c).

7 “(b) JUDICIAL REVIEW.—The provisions of section
8 1369(b) shall apply to the appointment of a receiver pur-
9 suant to this section to the same extent that such provi-
10 sions apply to the appointment of a conservator pursuant
11 to this subtitle.

12 “(c) DUTIES.—A receiver appointed pursuant to this
13 section shall be appointed for the purpose, and shall have
14 the duty, of liquidating or winding up the affairs of the
15 enterprise, in accordance with such regulations as the Di-
16 rector may issue, and notwithstanding the second sen-
17 tences of paragraphs (1) and (2)(B) of section 302(a) of
18 the Federal National Mortgage Association Charter Act
19 (12 U.S.C. 1717(a)) and section 303(c)(2) of the Federal
20 Home Loan Mortgage Corporation Act (12 U.S.C.
21 1452(c)(2)).

22 “(d) REPLACEMENT, POWERS, LIABILITY PROTEC-
23 TION.—The provisions of subsections (c) and (d) of section
24 1369, section 1369A, and section 1369B shall apply to
25 a receiver appointed pursuant to this section to the same

1 extent that such provisions apply to a conservator ap-
 2 pointed pursuant to this subtitle. In addition to any pow-
 3 ers under section 1369A, a receiver appointed pursuant
 4 to this section shall have such powers with respect to an
 5 enterprise, as the Director may by regulation provide, that
 6 the Federal Deposit Insurance Corporation has under sec-
 7 tion 11 of the Federal Deposit Insurance Act (12 U.S.C.
 8 1821), as in effect at that time, with respect to a insured
 9 depository institution when acting as a receiver under such
 10 section.”.

11 **Subtitle C—Enforcement Actions**

12 **SEC. 151. CEASE-AND-DESIST PROCEEDINGS.**

13 Section 1371 of the Housing and Community Devel-
 14 opment Act of 1992 (12 U.S.C. 4631) is amended—

15 (1) by striking subsections (a) and (b) and in-
 16 serting the following new subsections:

17 “(a) **ISSUANCE FOR UNSAFE OR UNSOUND PRAC-**
 18 **TICES AND VIOLATIONS OF RULES OR LAWS.**—If, in the
 19 opinion of the Director, an enterprise or any enterprise-
 20 affiliated party is engaging or has engaged, or the Direc-
 21 tor has reasonable cause to believe that the enterprise or
 22 any enterprise-affiliated party is about to engage, in an
 23 unsafe or unsound practice in conducting the business of
 24 the enterprise or is violating or has violated, or the Direc-
 25 tor has reasonable cause to believe that the enterprise or

1 any enterprise-affiliated party is about to violate, a law,
2 rule, or regulation, or any condition imposed in writing
3 by the Director in connection with the granting of any
4 application or other request by the enterprise or any writ-
5 ten agreement entered into with the Director, the Director
6 may issue and serve upon the enterprise or such party a
7 notice of charges in respect thereof. The Director may not
8 enforce compliance with any housing goal established
9 under subpart B of part 2 of subtitle A of this title, with
10 section 1336 or 1337 of this title, with subsection (m) or
11 (n) of section 309 of the Federal National Mortgage Asso-
12 ciation Charter Act (12 U.S.C. 1723a(m), (n)), or with
13 subsection (e) or (f) of section 307 of the Federal Home
14 Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)).

15 “(b) ISSUANCE FOR UNSATISFACTORY RATING.—If
16 an enterprise receives, in its most recent report of exam-
17 ination, a less-than-satisfactory rating for asset quality,
18 management, earnings, or liquidity, the Director may (if
19 the deficiency is not corrected) deem the enterprise to be
20 engaging in an unsafe or unsound practice for purposes
21 of this subsection.”; and

22 (2) in subsection (c)(2), by striking “or direc-
23 tor” and inserting “director, or enterprise-affiliated
24 party”.

1 **SEC. 152. TEMPORARY CEASE-AND-DESIST PROCEEDINGS.**

2 Section 1372 of the Housing and Community Devel-
3 opment Act of 1992 (12 U.S.C. 4632) is amended—

4 (1) by striking subsection (a) and inserting the
5 following new subsection:

6 “(a) **GROUND FOR ISSUANCE.**—Whenever the Direc-
7 tor determines that the violation or threatened violation
8 or the unsafe or unsound practice or practices specified
9 in the notice of charges served upon the enterprise or any
10 enterprise-affiliated party pursuant to section 1371(a), or
11 the continuation thereof, is likely to cause insolvency or
12 significant dissipation of assets or earnings of the enter-
13 prise, or is likely to weaken the condition of the enterprise
14 prior to the completion of the proceedings conducted pur-
15 suant to sections 1371 and 1373, the Director may issue
16 a temporary order requiring the enterprise or such party
17 to cease and desist from any such violation or practice
18 and to take affirmative action to prevent or remedy such
19 insolvency, dissipation, condition, or prejudice pending
20 completion of such proceedings. Such order may include
21 any requirement authorized under subsection 1371(d).”;

22 (2) in subsection (b), by striking “or director”
23 and inserting “director, or enterprise-affiliated
24 party”;

1 (3) in subsection (d), striking “or director” and
2 inserting “director, or enterprise-affiliated party”;
3 and

4 (4) by striking subsection (e) and in inserting
5 the following new subsection:

6 “(e) ENFORCEMENT.—In the case of violation or
7 threatened violation of, or failure to obey, a temporary
8 cease-and-desist order issued pursuant to this section, the
9 Director may apply to the United States District Court
10 for the District of Columbia or the United States district
11 court within the jurisdiction of which the headquarters of
12 the enterprise is located, for an injunction to enforce such
13 order, and, if the court determines that there has been
14 such violation or threatened violation or failure to obey,
15 it shall be the duty of the court to issue such injunction.”.

16 **SEC. 153. REMOVAL AND PROHIBITION AUTHORITY.**

17 (a) IN GENERAL.—Subtitle C of title XIII of the
18 Housing and Community Development Act of 1992 is
19 amended—

20 (1) by redesignating sections 1377 through
21 1379B (12 U.S.C. 4637–41) as sections 1379
22 through 1379D, respectively; and

23 (2) by inserting after section 1376 (12 U.S.C.
24 4636) the following new section:

1 **“SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.**

2 “(a) **AUTHORITY TO ISSUE ORDER.**—Whenever the
3 Director determines that—

4 “(1) any enterprise-affiliated party has, directly
5 or indirectly—

6 “(A) violated—

7 “(i) any law or regulation;

8 “(ii) any cease-and-desist order which
9 has become final;

10 “(iii) any condition imposed in writing
11 by the Director in connection with the
12 grant of any application or other request
13 by such enterprise; or

14 “(iv) any written agreement between
15 such enterprise and the Director;

16 “(B) engaged or participated in any unsafe
17 or unsound practice in connection with any en-
18 terprise; or

19 “(C) committed or engaged in any act,
20 omission, or practice which constitutes a breach
21 of such party’s fiduciary duty;

22 “(2) by reason of the violation, practice, or
23 breach described in any subparagraph of paragraph
24 (1)—

1 “(A) such enterprise has suffered or will
2 probably suffer financial loss or other damage;
3 or

4 “(B) such party has received financial gain
5 or other benefit by reason of such violation,
6 practice, or breach; and

7 “(3) such violation, practice, or breach—

8 “(A) involves personal dishonesty on the
9 part of such party; or

10 “(B) demonstrates willful or continuing
11 disregard by such party for the safety or sound-
12 ness of such enterprise,

13 the Director may serve upon such party a written notice
14 of the Director’s intention to remove such party from of-
15 fice or to prohibit any further participation by such party,
16 in any manner, in the conduct of the affairs of any enter-
17 prise.

18 “(b) SUSPENSION ORDER.—

19 “(1) SUSPENSION OR PROHIBITION AUTHOR-
20 ITY.—If the Director serves written notice under
21 subsection (a) to any enterprise-affiliated party of
22 the Director’s intention to issue an order under such
23 subsection, the Director may suspend such party
24 from office or prohibit such party from further par-

1 ticipation in any manner in the conduct of the af-
2 fairs of the enterprise, if the Director—

3 “(A) determines that such action is nec-
4 essary for the protection of the enterprise; and

5 “(B) serves such party with written notice
6 of the suspension order.

7 “(2) EFFECTIVE PERIOD.—Any suspension
8 order issued under subsection (a)—

9 “(A) shall become effective upon service;
10 and

11 “(B) unless a court issues a stay of such
12 order under subsection (g) of this section, shall
13 remain in effect and enforceable until—

14 “(i) the date the Director dismisses
15 the charges contained in the notice served
16 under subsection (a) with respect to such
17 party; or

18 “(ii) the effective date of an order
19 issued by the Director to such party under
20 subsection (a).

21 “(3) COPY OF ORDER.—If the Director issues a
22 suspension order under subsection (a) to any enter-
23 prise-affiliated party, the Director shall serve a copy
24 of such order on any enterprise with which such
25 party is affiliated at the time such order is issued.

1 “(c) NOTICE, HEARING, AND ORDER.—A notice of
2 intention to remove an enterprise-affiliated party from of-
3 fice or to prohibit such party from participating in the
4 conduct of the affairs of an enterprise shall contain a
5 statement of the facts constituting grounds for such ac-
6 tion, and shall fix a time and place at which a hearing
7 will be held on such action. Such hearing shall be fixed
8 for a date not earlier than 30 days nor later than 60 days
9 after the date of service of such notice, unless an earlier
10 or a later date is set by the Director at the request of
11 (1) such party, and for good cause shown, or (2) the At-
12 torney General of the United States. Unless such party
13 shall appear at the hearing in person or by a duly author-
14 ized representative, such party shall be deemed to have
15 consented to the issuance of an order of such removal or
16 prohibition. In the event of such consent, or if upon the
17 record made at any such hearing the Director shall find
18 that any of the grounds specified in such notice have been
19 established, the Director may issue such orders of suspen-
20 sion or removal from office, or prohibition from participa-
21 tion in the conduct of the affairs of the enterprise, as it
22 may deem appropriate. Any such order shall become effec-
23 tive at the expiration of 30 days after service upon such
24 enterprise and such party (except in the case of an order
25 issued upon consent, which shall become effective at the

1 time specified therein). Such order shall remain effective
 2 and enforceable except to such extent as it is stayed, modi-
 3 fied, terminated, or set aside by action of the Director or
 4 a reviewing court.

5 “(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVI-
 6 TIES.—Any person subject to an order issued under this
 7 section shall not—

8 “(1) participate in any manner in the conduct
 9 of the affairs of any enterprise;

10 “(2) solicit, procure, transfer, attempt to trans-
 11 fer, vote, or attempt to vote any proxy, consent, or
 12 authorization with respect to any voting rights in
 13 any enterprise;

14 “(3) violate any voting agreement previously
 15 approved by the Director; or

16 “(4) vote for a director, or serve or act as an
 17 enterprise-affiliated party.

18 “(e) INDUSTRY-WIDE PROHIBITION.—

19 “(1) IN GENERAL.—Except as provided in sub-
 20 paragraph (2), any person who, pursuant to an
 21 order issued under subsection (h), has been removed
 22 or suspended from office in an enterprise or prohib-
 23 ited from participating in the conduct of the affairs
 24 of an enterprise may not, while such order is in ef-
 25 fect, continue or commence to hold any office in, or

1 participate in any manner in the conduct of the af-
2 fairs of any enterprise.

3 “(2) EXCEPTION IF DIRECTOR PROVIDES WRIT-
4 TEN CONSENT.—If, on or after the date an order is
5 issued under this section which removes or suspends
6 from office any enterprise-affiliated party or pro-
7 hibits such party from participating in the conduct
8 of the affairs of an enterprise, such party receives
9 the written consent of the Director, the order shall,
10 to the extent of such consent, cease to apply to such
11 party with respect to the enterprise described in the
12 written consent. If the Director grants such a writ-
13 ten consent, it shall publicly disclose such consent.

14 “(3) VIOLATION OF PARAGRAPH (1) TREATED
15 AS VIOLATION OF ORDER.—Any violation of para-
16 graph (1) by any person who is subject to an order
17 described in such subsection shall be treated as a
18 violation of the order.

19 “(f) APPLICABILITY.—This section shall only apply
20 to a person who is an individual, unless the Director spe-
21 cifically finds that it should apply to a corporation, firm,
22 or other business enterprise.

23 “(g) STAY OF SUSPENSION AND PROHIBITION OF
24 ENTERPRISE-AFFILIATED PARTY.—Within 10 days after
25 any enterprise-affiliated party has been suspended from

1 office and/or prohibited from participation in the conduct
2 of the affairs of an enterprise under this section, such
3 party may apply to the United States District Court for
4 the District of Columbia, or the United States district
5 court for the judicial district in which the headquarters
6 of the enterprise is located, for a stay of such suspension
7 and/or prohibition pending the completion of the adminis-
8 trative proceedings pursuant to the notice served upon
9 such party under this section, and such court shall have
10 jurisdiction to stay such suspension and/or prohibition.

11 “(h) SUSPENSION OR REMOVAL OF ENTERPRISE-AF-
12 FILIATED PARTY CHARGED WITH FELONY.—

13 “(1) SUSPENSION OR PROHIBITION.—

14 “(A) IN GENERAL.—Whenever any enter-
15 prise-affiliated party is charged in any informa-
16 tion, indictment, or complaint, with the commis-
17 sion of or participation in a crime involving dis-
18 honesty or breach of trust which is punishable
19 by imprisonment for a term exceeding one year
20 under State or Federal law, the Director may,
21 if continued service or participation by such
22 party may pose a threat to the enterprise or im-
23 pair public confidence in the enterprise, by writ-
24 ten notice served upon such party, suspend
25 such party from office or prohibit such party

1 from further participation in any manner in the
2 conduct of the affairs of any enterprise.

3 “(B) PROVISIONS APPLICABLE TO NO-
4 TICE.—

5 “(i) COPY.—A copy of any notice
6 under paragraph (1)(A) shall also be
7 served upon the enterprise.

8 “(ii) EFFECTIVE PERIOD.—A suspen-
9 sion or prohibition under subparagraph (A)
10 shall remain in effect until the informa-
11 tion, indictment, or complaint referred to
12 in such subparagraph is finally disposed of
13 or until terminated by the Director.

14 “(2) REMOVAL OR PROHIBITION.—

15 “(A) IN GENERAL.—If a judgment of con-
16 viction or an agreement to enter a pretrial di-
17 version or other similar program is entered
18 against an enterprise-affiliated party in connec-
19 tion with a crime described in paragraph
20 (1)(A), at such time as such judgment is not
21 subject to further appellate review, the Director
22 may, if continued service or participation by
23 such party may pose a threat to the enterprise
24 or impair public confidence in the enterprise,
25 issue and serve upon such party an order re-

1 moving such party from office or prohibiting
2 such party from further participation in any
3 manner in the conduct of the affairs of the en-
4 terprise without the prior written consent of the
5 Director.

6 “(B) PROVISIONS APPLICABLE TO
7 ORDER.—

8 “(i) COPY.—A copy of any order
9 under paragraph (2)(A) shall also be
10 served upon the enterprise, whereupon the
11 enterprise-affiliated party who is subject to
12 the order (if a director or an officer) shall
13 cease to be a director or officer of such en-
14 terprise.

15 “(ii) EFFECT OF ACQUITTAL.—A find-
16 ing of not guilty or other disposition of the
17 charge shall not preclude the Director from
18 instituting proceedings after such finding
19 or disposition to remove such party from
20 office or to prohibit further participation in
21 enterprise affairs pursuant to subsections
22 (a), (d), or (e) of this section.

23 “(iii) EFFECTIVE PERIOD.—Any no-
24 tice of suspension or order of removal
25 issued under this subsection shall remain

1 effective and outstanding until the comple-
2 tion of any hearing or appeal authorized
3 under paragraph (4) unless terminated by
4 the Director.

5 “(3) AUTHORITY OF REMAINING BOARD MEM-
6 BERS.—If at any time, because of the suspension of
7 one or more directors pursuant to this section, there
8 shall be on the board of directors of an enterprise
9 less than a quorum of directors not so suspended, all
10 powers and functions vested in or exercisable by
11 such board shall vest in and be exercisable by the di-
12 rector or directors on the board not so suspended,
13 until such time as there shall be a quorum of the
14 board of directors. In the event all of the directors
15 of an enterprise are suspended pursuant to this sec-
16 tion, the Director shall appoint persons to serve tem-
17 porarily as directors in their place and stead pending
18 the termination of such suspensions, or until such
19 time as those who have been suspended, cease to be
20 directors of the enterprise and their respective suc-
21 cessors take office.

22 “(4) HEARING REGARDING CONTINUED PAR-
23 TICIPATION.—Within 30 days from service of any
24 notice of suspension or order of removal issued pur-
25 suant to paragraph (1) or (2) of this subsection, the

1 enterprise-affiliated party concerned may request in
2 writing an opportunity to appear before the Director
3 to show that the continued service to or participation
4 in the conduct of the affairs of the enterprise by
5 such party does not, or is not likely to, pose a threat
6 to the interests of the enterprise or threaten to im-
7 pair public confidence in the enterprise. Upon re-
8 ceipt of any such request, the Director shall fix a
9 time (not more than 30 days after receipt of such
10 request, unless extended at the request of such
11 party) and place at which such party may appear,
12 personally or through counsel, before one or more
13 members of the Director or designated employees of
14 the Director to submit written materials (or, at the
15 discretion of the Director, oral testimony) and oral
16 argument. Within 60 days of such hearing, the Di-
17 rector shall notify such party whether the suspension
18 or prohibition from participation in any manner in
19 the conduct of the affairs of the enterprise will be
20 continued, terminated, or otherwise modified, or
21 whether the order removing such party from office
22 or prohibiting such party from further participation
23 in any manner in the conduct of the affairs of the
24 enterprise will be rescinded or otherwise modified.
25 Such notification shall contain a statement of the

1 basis for the Director's decision, if adverse to such
2 party. The Director is authorized to prescribe such
3 rules as may be necessary to effectuate the purposes
4 of this subsection.

5 “(i) HEARINGS AND JUDICIAL REVIEW.—

6 “(1) VENUE AND PROCEDURE.—Any hearing
7 provided for in this section shall be held in the Dis-
8 trict of Columbia or in the Federal judicial district
9 in which the headquarters of the enterprise is lo-
10 cated, unless the party afforded the hearing consents
11 to another place, and shall be conducted in accord-
12 ance with the provisions of chapter 5 of title 5,
13 United States Code. After such hearing, and within
14 90 days after the Director has notified the parties
15 that the case has been submitted to it for final deci-
16 sion, it shall render its decision (which shall include
17 findings of fact upon which its decision is predi-
18 cated) and shall issue and serve upon each party to
19 the proceeding an order or orders consistent with
20 the provisions of this section. Judicial review of any
21 such order shall be exclusively as provided in this
22 subsection. Unless a petition for review is timely
23 filed in a court of appeals of the United States, as
24 provided in paragraph (2), and thereafter until the
25 record in the proceeding has been filed as so pro-

1 vided, the Director may at any time, upon such no-
2 tice and in such manner as it shall deem proper,
3 modify, terminate, or set aside any such order. Upon
4 such filing of the record, the Director may modify,
5 terminate, or set aside any such order with permis-
6 sion of the court.

7 “(2) REVIEW OF ORDER.—Any party to any
8 proceeding under paragraph (1) may obtain a review
9 of any order served pursuant to paragraph (1)
10 (other than an order issued with the consent of the
11 enterprise or the enterprise-affiliated party con-
12 cerned, or an order issued under subsection (h) of
13 this section) by the filing in the United States Court
14 of Appeals for the District of Columbia Circuit or
15 court of appeals of the United States for the circuit
16 in which the headquarters of the enterprise is lo-
17 cated, within 30 days after the date of service of
18 such order, a written petition praying that the order
19 of the Director be modified, terminated, or set aside.
20 A copy of such petition shall be forthwith trans-
21 mitted by the clerk of the court to the Director, and
22 thereupon the Director shall file in the court the
23 record in the proceeding, as provided in section 2112
24 of title 28, United States Code. Upon the filing of
25 such petition, such court shall have jurisdiction,

1 which upon the filing of the record shall (except as
2 provided in the last sentence of paragraph (1)) be
3 exclusive, to affirm, modify, terminate, or set aside,
4 in whole or in part, the order of the Director. Re-
5 view of such proceedings shall be had as provided in
6 chapter 7 of title 5, United States Code. The judg-
7 ment and decree of the court shall be final, except
8 that the same shall be subject to review by the Su-
9 preme Court upon certiorari, as provided in section
10 1254 of title 28, United States Code.

11 “(3) PROCEEDINGS NOT TREATED AS STAY.—
12 The commencement of proceedings for judicial re-
13 view under paragraph (2) shall not, unless specifi-
14 cally ordered by the court, operate as a stay of any
15 order issued by the Director.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) 1992 ACT.—Section 1317(f) of the Housing
18 and Community Development Act of 1992 (12
19 U.S.C. 4517(f)) is amended by striking “section
20 1379B” and inserting “section 1379D”.

21 (2) FANNIE MAE CHARTER ACT.—The second
22 sentence of subsection (b) of section 308 of the Fed-
23 eral National Mortgage Association Charter Act (12
24 U.S.C. 1723(b)) is amended by striking “The” and
25 inserting “Except to the extent action under section

1 1377 of the Housing and Community Development
2 Act of 1992 temporarily results in a lesser number,
3 the”.

4 (3) FREDDIE MAC ACT.—The second sentence
5 of subparagraph (A) of section 303(a)(2) of the
6 Federal Home Loan Mortgage Corporation Act (12
7 U.S.C. 1452(a)(2)(A)) is amended by striking
8 “The” and inserting “Except to the extent action
9 under section 1377 of the Housing and Community
10 Development Act of 1992 temporarily results in a
11 lesser number, the”.

12 **SEC. 154. ENFORCEMENT AND JURISDICTION.**

13 Section 1375 of the Housing and Community Devel-
14 opment Act of 1992 (12 U.S.C. 4635) is amended—

15 (1) by striking subsection (a) and inserting the
16 following new subsection:

17 “(a) ENFORCEMENT.—The Director may, in the dis-
18 cretion of the Director, apply to the United States District
19 Court for the District of Columbia, or the United States
20 district court within the jurisdiction of which the head-
21 quarters of the enterprise is located, for the enforcement
22 of any effective and outstanding notice or order issued
23 under this subtitle or subtitle B, or request that the Attor-
24 ney General of the United States bring such an action.

1 Such court shall have jurisdiction and power to order and
 2 require compliance with such notice or order.”; and

3 (2) in subsection (b), by striking “or 1376” and
 4 inserting “1376, or 1377”.

5 **SEC. 155. CIVIL MONEY PENALTIES.**

6 Section 1376 of the Housing and Community Devel-
 7 opment Act of 1992 (12 U.S.C. 4636) is amended—

8 (1) in subsection (a), in the matter preceding
 9 paragraph (1), by striking “or any executive officer
 10 or” and inserting “any executive officer of an enter-
 11 prise, any enterprise-affiliated party, or any”;

12 (2) by striking subsection (b) and inserting the
 13 following new subsection:

14 “(b) AMOUNT OF PENALTY.—

15 “(1) FIRST TIER.—Any enterprise which, or
 16 any enterprise-affiliated party who—

17 “(A) violates any provision of this title, the
 18 Federal National Mortgage Association Charter
 19 Act (12 U.S.C. 1716 et seq.), the Federal
 20 Home Loan Mortgage Corporation Act (12
 21 U.S.C. 1451 et seq.), or any order, condition,
 22 rule, or regulation under any such title or Act,
 23 except that the Director may not enforce com-
 24 pliance with any housing goal established under
 25 subpart B of part 2 of subtitle A of this title,

1 with section 1336 or 1337 of this title, with
2 subsection (m) or (n) of section 309 of the Fed-
3 eral National Mortgage Association Charter Act
4 (12 U.S.C. 1723a(m), (n)), or with subsection
5 (e) or (f) of section 307 of the Federal Home
6 Loan Mortgage Corporation Act (12 U.S.C.
7 1456(e), (f));

8 “(B) violates any final or temporary order
9 or notice issued pursuant to this title;

10 “(C) violates any condition imposed in
11 writing by the Director in connection with the
12 grant of any application or other request by
13 such enterprise;

14 “(D) violates any written agreement be-
15 tween the enterprise and the Director; or

16 “(E) engages in any conduct the Director
17 determines to be an unsafe or unsound practice,
18 shall forfeit and pay a civil penalty of not more than
19 \$10,000 for each day during which such violation
20 continues.

21 “(2) SECOND TIER.—Notwithstanding para-
22 graph (1)—

23 “(A) if an enterprise, or an enterprise-af-
24 filiated party—

1 “(i) commits any violation described
2 in any subparagraph of paragraph (1);

3 “(ii) recklessly engages in an unsafe
4 or unsound practice in conducting the af-
5 fairs of such enterprise; or

6 “(iii) breaches any fiduciary duty
7 which violation, practice, or breach; and

8 “(B) the violation, practice, or breach—

9 “(i) is part of a pattern of mis-
10 conduct;

11 “(ii) causes or is likely to cause more
12 than a minimal loss to such enterprise; or

13 “(iii) results in pecuniary gain or
14 other benefit to such party,

15 the enterprise or enterprise-affiliated party shall for-
16 feit and pay a civil penalty of not more than
17 \$50,000 for each day during which such violation,
18 practice, or breach continues.

19 “(3) THIRD TIER.—Notwithstanding para-
20 graphs (1) and (2), any enterprise which, or any en-
21 terprise-affiliated party who—

22 “(A) knowingly—

23 “(i) commits any violation described
24 in any subparagraph of paragraph (1);

1 “(ii) engages in any unsafe or un-
2 sound practice in conducting the affairs of
3 such enterprise; or

4 “(iii) breaches any fiduciary duty; and

5 “(B) knowingly or recklessly causes a sub-
6 stantial loss to such enterprise or a substantial
7 pecuniary gain or other benefit to such party by
8 reason of such violation, practice, or breach,
9 shall forfeit and pay a civil penalty in an amount not
10 to exceed the applicable maximum amount deter-
11 mined under paragraph (4) for each day during
12 which such violation, practice, or breach continues.

13 “(4) MAXIMUM AMOUNTS OF PENALTIES FOR
14 ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—
15 The maximum daily amount of any civil penalty
16 which may be assessed pursuant to paragraph (3)
17 for any violation, practice, or breach described in
18 such paragraph is—

19 “(A) in the case of any person other than
20 an enterprise, an amount not to exceed
21 \$2,000,000; and

22 “(B) in the case of any enterprise,
23 \$2,000,000.”; and

24 (3) in subsection (d)—

1 (A) by striking “or director” each place
2 such term appears and inserting “director, or
3 enterprise-affiliated party”;

4 (B) by striking “request the Attorney Gen-
5 eral of the United States to”;

6 (C) by inserting “, or the United States
7 district court within the jurisdiction of which
8 the headquarters of the enterprise is located,”
9 after “District of Columbia”; and

10 (D) by striking “, or may, under the direc-
11 tion and control of the Attorney General, bring
12 such an action”.

13 **SEC. 156. CRIMINAL PENALTY.**

14 Subtitle C of title XIII of the Housing and Commu-
15 nity Development Act of 1992 (12 U.S.C. 4631 et seq.)
16 is amended by inserting after section 1377 (as added by
17 the preceding provisions of this Act) the following new sec-
18 tion:

19 **“SEC. 1378. CRIMINAL PENALTY.**

20 “Whoever, being subject to an order in effect under
21 section 1377, without the prior written approval of the Di-
22 rector, knowingly participates, directly or indirectly, in any
23 manner (including by engaging in an activity specifically
24 prohibited in such an order) in the conduct of the affairs
25 of any enterprise shall, notwithstanding section 3571 of

1 title 18, be fined not more than \$1,000,000, imprisoned
2 for not more than 5 years, or both.”.

3 **Subtitle D—Reporting Regarding**
4 **Enterprises**

5 **SEC. 161. REPORTING REGARDING ENTERPRISES.**

6 Part 3 of subtitle A of the Housing and Community
7 Development Act of 1992 is amended—

8 (1) by striking sections 1351, 1352, and 1353
9 (Public Law 102–550; 106 Stat. 3969), except the
10 provisions of law amended by such sections repealed
11 shall not be affected by such repeal; and

12 (2) by striking sections 1354, 1355, and 1356
13 (12 U.S.C. 4601–3) and inserting the following new
14 section:

15 **“SEC. 1351. REPORTS REGARDING ENTERPRISE ISSUES**
16 **AND ACTIVITIES.**

17 “(a) INSURED DEPOSITORY INSTITUTION HOLDINGS
18 OF ENTERPRISE DEBT AND MORTGAGE-BACKED SECURI-
19 TIES.—Not later than 180 days after the date of the en-
20 actment of the Secondary Mortgage Market Enterprises
21 Regulatory Improvement Act, the Secretary of the Treas-
22 ury, the Board of Governors of the Federal Reserve Sys-
23 tem, the Board of Directors of the Federal Deposit Insur-
24 ance Corporation, and the National Credit Union Admin-

1 istration Board shall jointly submit a report to the Con-
2 gress regarding—

3 “(1) the extent to which obligations issued or
4 guaranteed by the enterprises (including mortgage-
5 backed securities) are held by federally insured de-
6 pository institutions, including such extent by type
7 of institution and such extent relative to the institu-
8 tions’ capital;

9 “(2) the extent to which the unlimited holdings
10 by federally insured depository institutions of the ob-
11 ligations of the enterprises could produce systemic
12 risk issues, particularly for the safety and soundness
13 of the banking system in the United States, in the
14 event of default or failure by an enterprise; and

15 “(3) the effects on the enterprises, the banking
16 industry, and mortgage markets, if prudent limits on
17 the holdings of enterprise obligations were placed on
18 federally insured depository institutions.

19 “(b) PORTFOLIO OPERATIONS, RISK MANAGEMENT,
20 AND MISSION.—Not later than one year after the date of
21 the enactment of the Secondary Mortgage Market Enter-
22 prises Regulatory Improvement Act, the Director shall
23 submit a report to the Congress—

24 “(1) describing the holdings of the enterprises
25 in retained mortgages and repurchased mortgage-

1 backed securities and the use of derivatives for hedg-
2 ing purposes;

3 “(2) describing the extent of such holdings rel-
4 ative to other assets and the risk implications of
5 such holdings;

6 “(3) containing an analysis of such holdings for
7 safety and soundness and/or mission compliance pur-
8 poses; and

9 “(4) containing an assessment of whether such
10 holdings and other assets of the enterprises fulfill
11 the mission purposes of the enterprises under the
12 Federal National Mortgage Association Charter Act
13 and the Federal Home Loan Mortgage Corporation
14 Act.

15 The Director shall consult with the Comptroller General
16 of the United States in preparing the report under this
17 subsection and in conducting any research, analyses, and
18 assessments for the report.

19 “(c) DEBT ISSUANCES.—Not later than one year
20 after the date of the enactment of the Secondary Mortgage
21 Market Enterprises Regulatory Improvement Act, the Sec-
22 retary of the Treasury shall submit a report to the Con-
23 gress regarding—

1 “(1) the extent of outstanding obligations of the
2 enterprises and the rate of growth of such obliga-
3 tions; and

4 “(2) an analysis of whether debt issuances
5 should be limited or reduced if an enterprise is not
6 operating in a safe and sound manner and/or not
7 complying with its mission, or if an enterprise fails
8 to maintain a certain credit rating and/or debt rat-
9 ing.

10 “(d) TREASURY LINE OF CREDIT.—Not later than
11 one year after the date of the enactment of the Secondary
12 Mortgage Market Enterprises Regulatory Improvement
13 Act, the Secretary of the Treasury shall submit a report
14 to the Congress regarding the purposes of the authority
15 of the Secretary of the Treasury to purchase the debt obli-
16 gations of the enterprises. The report shall assess the de-
17 sirability of limiting such authority in certain cir-
18 cumstances or eliminating such authority.

19 “(e) RISK-BASED CAPITAL LEVELS.—The Director
20 shall submit a report to the Congress annually, on fiscal
21 year basis, regarding—

22 “(1) the risk-based capital levels for the enter-
23 prises under section 1361, including a description of
24 the risk-based capital test under such section and

1 any assumptions of the Director and factors used by
 2 the Director in establishing the test; and

3 (2) the minimum and critical capital levels for
 4 the enterprises pursuant to sections 1362 and 1363,
 5 respectively.

6 Each report under this subsection for a fiscal year shall
 7 be submitted not later than the December 31 first occur-
 8 ring after the conclusion of such fiscal year.

9 “(f) RECOMMENDATIONS.—Each report submitted
 10 pursuant to this section shall include specific recommenda-
 11 tions of appropriate policies, limitations, regulations, legis-
 12 lation, or other actions to deal appropriately and effec-
 13 tively with the issues addressed by such report.”.

14 **Subtitle E—General Provisions**

15 **SEC. 171. CONFORMING AND TECHNICAL AMENDMENTS.**

16 (a) AMENDMENTS TO 1992 ACT.—Title XIII of the
 17 Housing and Community Development Act of 1992 (12
 18 U.S.C. 4501 et seq.), as amended by the preceding provi-
 19 sions of this Act, is further amended—

20 (1) in section 1315 (12 U.S.C. 4515)—

21 (A) in subsection (a)—

22 (i) in the subsection heading, by strik-
 23 ing “OFFICE PERSONNEL” and inserting
 24 “IN GENERAL”;

1 (ii) by striking “The” and inserting
2 “Subject to title II of the Secondary Mort-
3 gage Market Enterprises Regulatory Im-
4 provement Act, the”; and

5 (iii) by striking “Director and the Of-
6 fice. Officers” and inserting “Director,
7 with respect to regulation and supervision
8 of the enterprises. Such officers”;

9 (B) in subsection (b)—

10 (i) by striking “, and maintain com-
11 parability with compensation of officers
12 and employees of”;

13 (ii) by inserting “and” after “Sys-
14 tem,”; and

15 (iii) by striking “the Office of Thrift
16 Supervision” and inserting the following:
17 “and shall maintain comparability with
18 compensation of officers and employees of
19 such Office, Board, and Corporation, and
20 of other officers and employees of the Of-
21 fice of Housing Finance Supervision”;

22 (C) in subsection (c), by inserting “, with
23 respect to regulation and supervision of the en-
24 terprises” before the first comma;

25 (D) in subsection (d)—

1 (i) in the subsection heading, by strik-
2 ing “HUD” and inserting “DEPARTMENT
3 OF THE TREASURY”; and

4 (ii) by striking “Housing and Urban
5 Development” and inserting “the Treas-
6 ury”;

7 (E) in subsection (e), by inserting “, with
8 respect to regulation and supervision of the en-
9 terprises” before the period at the end; and

10 (F) by striking subsection (f);

11 (2) in section 1319A (12 U.S.C. 4520)—

12 (A) by striking “(a) IN GENERAL.—”; and

13 (B) by striking subsection (b);

14 (3) in section 1319C (12 U.S.C. 4522)—

15 (A) in subsection (a)(1), by inserting
16 “under this title” after “redressed”; and

17 (B) in subsection (b), by inserting “under
18 this title” after “issued”;

19 (4) in section 1319D (12 U.S.C. 4523), by in-
20 serting “to conduct duties relating to the regulation
21 and supervision of the enterprises” before the second
22 comma;

23 (5) in section 1319E (12 U.S.C. 4524)—

1 (A) by inserting “relating to regulation
2 and supervision of the enterprises” before “in
3 accordance with”; and

4 (B) by inserting “in functions relating to
5 the regulation and supervision of the enter-
6 prises” before “shall be made available”;

7 (6) in section 1319F (12 U.S.C. 4525), by
8 striking “Code” and all that follows through “agen-
9 cies” and inserting “Code, the Office of Housing Fi-
10 nance Supervision, to the extent only of its func-
11 tions, activities, and employees involved in the regu-
12 lation and supervision of the enterprises, shall be
13 considered an agency”;

14 (7) in the section heading for section 1328, by
15 striking “**SECRETARY**” and inserting “**DIREC-**
16 **TOR**”;

17 (8) in section 1361 (12 U.S.C. 4611)—

18 (A) in subsection (e)(1), by striking the
19 first sentence and inserting the following new
20 sentence: “The Director shall establish the risk-
21 based capital test under this section by regula-
22 tion.”; and

23 (B) in subsection (f), by striking “the Sec-
24 retary,”;

1 (9) in section 1364(c) (12 U.S.C. 4614(c)), by
 2 striking the last sentence;

3 (10) in section 1367(a)(2) (12 U.S.C.
 4 4617(a)(2)), by striking “with the written concu-
 5 rence of the Secretary of the Treasury,”;

6 (11) in section 1369A(i) (12 U.S.C. 4620(i)),
 7 by inserting “having duties relating to regulation
 8 and supervision of the enterprises” before the period
 9 at the end;

10 (12) by striking section 1383;

11 (13) by striking “Committee on Banking, Fi-
 12 nance and Urban Affairs” and inserting “Committee
 13 on Financial Services” each place such term appears
 14 in sections 1319B, 1319G(c), 1328(a),
 15 1336(b)(3)(C), 1337, and 1369(a)(3); and

16 (14) by striking “Secretary” and inserting “Di-
 17 rector” each place such term appears in —

18 (A) subpart A of part 2 of subtitle A (ex-
 19 cept in sections 1322, 1324, and 1325);

20 (B) subtitle B (except in section
 21 1361(d)(1) and 1369E); and

22 (C) subtitle C.

23 (b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—
 24 The Federal National Mortgage Association Charter Act
 25 (12 U.S.C. 1716 et seq.) is amended—

1 (1) by striking “Director of the Office of Fed-
 2 eral Housing Enterprise Oversight of the Depart-
 3 ment of Housing and Urban Development” each
 4 place such term appears, and inserting “Director of
 5 the Office of Housing Finance Supervision”, in—

6 (A) section 303(c)(2) (12 U.S.C.
 7 1718(c)(2));

8 (B) section 309(d)(3)(B) (12 U.S.C.
 9 1723a(d)(3)(B)); and

10 (C) section 309(k)(1); and
 11 (2) in section 309(n)—

12 (A) in paragraph (1), by inserting “the Di-
 13 rector of the Office of Housing Finance Super-
 14 vision,” after “Senate,”; and

15 (B) in paragraph (3)(B), by striking “Sec-
 16 retary” and inserting “Director of the Office of
 17 Housing Finance Supervision”.

18 (c) AMENDMENTS TO FREDDIE MAC ACT.—The Fed-
 19 eral Home Loan Mortgage Corporation Act is amended—

20 (1) by striking “Director of the Office of Fed-
 21 eral Housing Enterprise Oversight of the Depart-
 22 ment of Housing and Urban Development” each
 23 place such term appears, and inserting “Director of
 24 the Office of Housing Finance Supervision”, in—

1 (A) section 303(b)(2) (12 U.S.C.
2 1452(b)(2));

3 (B) section 303(h)(2) (12 U.S.C.
4 1452(h)(2)); and

5 (C) section 307(c)(1) (12 U.S.C.
6 1456(c)(1));

7 (2) in section 306(i) (12 U.S.C. 1455(i))—

8 (A) by striking “section 1316(c)” and in-
9 serting “section 306(c)”; and

10 (B) by striking “section 106” and insert-
11 ing “section 1316”; and

12 (3) in section 307 (12 U.S.C. 1456)—

13 (A) in subsection (f)—

14 (i) in paragraph (1), by inserting “the
15 Director of the Office of Housing Finance
16 Supervision,” after “Senate,”; and

17 (ii) in paragraph (3)(B), by striking
18 “Secretary” and inserting “Director of the
19 Office of Housing Finance Supervision”.

20 (d) AMENDMENT TO TITLE 18, UNITED STATES
21 CODE.—Section 1905 of title 18, United States Code, is
22 amended by striking “Office of Federal Housing Enter-
23 prise Oversight” and inserting “Office of Housing Finance
24 Supervision in its capacity under title XIII of the Housing
25 and Community Development Act of 1992”.

1 (e) AMENDMENTS TO FLOOD DISASTER PROTECTION
2 ACT OF 1973.—Section 102(f)(3)(A) of the Flood Dis-
3 aster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A))
4 is amended by striking “Director of the Office of Federal
5 Housing Enterprise Oversight of the Department of Hous-
6 ing and Urban Development” and inserting “Director of
7 the Office of Housing Finance Supervision”.

8 (f) AMENDMENT TO DEPARTMENT OF HOUSING AND
9 URBAN DEVELOPMENT ACT.—Section 5 of the Depart-
10 ment of Housing and Urban Development Act (42 U.S.C.
11 3534) is amended by striking subsection (d).

12 (g) AMENDMENT TO TITLE 5, UNITED STATES
13 CODE.—Section 5315 of title 5, United States Code, is
14 amended by striking the item relating to the Director of
15 the Office of Federal Housing Enterprise Oversight, De-
16 partment of Housing and Urban Development.

17 **SEC. 172. EFFECTIVE DATE.**

18 Except as specifically provided otherwise in this title,
19 the amendments made by this title shall take effect on,
20 and shall apply beginning on, the expiration of the 1-year
21 period beginning on the date of the enactment of this Act.

1 **TITLE II—TRANSFER OF FUNC-**
2 **TIONS, PERSONNEL, AND**
3 **PROPERTY**

4 **SEC. 201. ABOLISHMENT OF OFHEO.**

5 (a) IN GENERAL.—Effective at the end of the 1-year
6 period beginning on the date of the enactment of this Act,
7 the Office of Federal Housing Enterprise Oversight of the
8 Department of Housing and Urban Development and the
9 positions of the Director and Deputy Director of such Of-
10 fice are abolished.

11 (b) DISPOSITION OF AFFAIRS.—During the 1-year
12 period beginning on the date of the enactment of this Act,
13 the Director of the Office of Federal Housing Enterprise
14 Oversight shall, solely for the purpose of winding up the
15 affairs of the Office of Federal Housing Enterprise Over-
16 sight—

17 (1) manage the employees of such Office and
18 provide for the payment of the compensation and
19 benefits of any such employee which accrue before
20 the effective date of any transfer of such employee
21 pursuant to section 203; and

22 (2) may take any other action necessary for the
23 purpose of winding up the affairs of the Office.

24 (c) STATUS OF EMPLOYEES AS FEDERAL AGENCY
25 EMPLOYEES.—The amendments made by title I and the

1 abolishment of the Office of Federal Housing Enterprise
2 Oversight under subsection (a) of this section may not be
3 construed to affect the status of any employee of such Of-
4 fice as employees of an agency of the United States for
5 purposes of any other provision of law during any time
6 such employee is so employed.

7 (d) USE OF PROPERTY AND SERVICES.—

8 (1) PROPERTY.—The Director of the Office of
9 Housing Finance Supervision may use the property
10 of the Office of Federal Housing Enterprise Over-
11 sight to perform functions which have been trans-
12 ferred to the Director of the Office of Housing Fi-
13 nance Supervision for such time as is reasonable to
14 facilitate the orderly transfer of functions trans-
15 ferred pursuant to any other provision of this Act or
16 any amendment made by this Act to any other provi-
17 sion of law.

18 (2) AGENCY SERVICES.—Any agency, depart-
19 ment, or other instrumentality of the United States,
20 and any successor to any such agency, department,
21 or instrumentality, which was providing supporting
22 services to the Office of Federal Housing Enterprise
23 Oversight before the expiration of the period under
24 subsection (a) in connection with functions that are

1 transferred to the Director of the Office of Housing
2 Finance Supervision shall—

3 (A) continue to provide such services, on a
4 reimbursable basis, until the transfer of such
5 functions is complete; and

6 (B) consult with any such agency to co-
7 ordinate and facilitate a prompt and reasonable
8 transition.

9 (e) SAVINGS PROVISIONS.—

10 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
11 TIONS NOT AFFECTED.—Subsection (a) shall not af-
12 fect the validity of any right, duty, or obligation of
13 the United States, the Director of the Office of Fed-
14 eral Housing Enterprise Oversight, or any other per-
15 son, which—

16 (A) arises under or pursuant to the title
17 XIII of the Housing and Community Develop-
18 ment Act of 1992, the Federal National Mort-
19 gage Association Charter Act, the Federal
20 Home Loan Mortgage Corporation Act, or any
21 other provision of law applicable with respect to
22 such Office; and

23 (B) existed on the day before the abolish-
24 ment under subsection (a) of this section.

1 (2) CONTINUATION OF SUITS.—No action or
2 other proceeding commenced by or against the Di-
3 rector of the Office of Federal Housing Enterprise
4 Oversight shall abate by reason of the enactment of
5 this Act, except that the Director of the Office of
6 Housing Finance Supervision shall be substituted
7 for the Director of the Office of Federal Housing
8 Enterprise Oversight as a party to any such action
9 or proceeding.

10 **SEC. 202. CONTINUATION AND COORDINATION OF CERTAIN**
11 **REGULATIONS.**

12 All regulations, orders, determinations, and resolu-
13 tions that—

14 (1) were issued, made, prescribed, or allowed to
15 become effective by—

16 (A) the Office of Federal Housing Enter-
17 prise Oversight;

18 (B) the Secretary of Housing and Urban
19 Development and that relate to the Secretary's
20 authority under—

21 (i) title XIII of the Housing and Com-
22 munity Development Act of 1992;

23 (ii) under the Federal National Mort-
24 gage Association Charter Act, with respect

1 to the Federal National Mortgage Associa-
 2 tion; or

3 (iii) the Federal Home Loan Mort-
 4 gage Corporation Act; or

5 (C) a court of competent jurisdiction and
 6 that relate to functions transferred by this Act;
 7 and

8 (2) are in effect on the date of the abolishment
 9 under section 201(a) of this Act,

10 shall remain in effect according to the terms of such regu-
 11 lations, orders, determinations, and resolutions and shall
 12 be enforceable by or against the Director of the Office of
 13 Housing Finance Supervision until modified, terminated,
 14 set aside, or superseded in accordance with applicable law
 15 by such Board, any court of competent jurisdiction, or op-
 16 eration of law.

17 **SEC. 203. TRANSFER AND RIGHTS OF EMPLOYEES OF**
 18 **OFHEO.**

19 (a) **AUTHORITY TO TRANSFER.**—The Director of the
 20 Office of Housing Finance Supervision may transfer em-
 21 ployees of the Office of Federal Housing Enterprise Over-
 22 sight to the Office of Housing Finance Supervision for em-
 23 ployment no later than the date of the abolishment under
 24 section 201(a) of this Act, as the Director considers ap-
 25 propriate. This Act and the amendments made by this Act

1 shall not be considered to result in the transfer of any
2 function from one agency to another or the replacement
3 of one agency by another, for purposes of section 3505
4 of title 5, United States Code, except to the extent that
5 the Director of the Office of Housing Finance Supervision
6 specifically provides so.

7 (b) APPOINTMENT AUTHORITY FOR EXCEPTED AND
8 SENIOR EXECUTIVE SERVICE EMPLOYEES.—

9 (1) IN GENERAL.—In the case of employees oc-
10 cupying positions in the excepted service or the Sen-
11 ior Executive Service, any appointment authority es-
12 tablished pursuant to law or regulations of the Of-
13 fice of Personnel Management for filling such posi-
14 tions shall be transferred, subject to paragraph (2).

15 (2) DECLINE OF TRANSFER.—The Director of
16 the Office of Housing Finance Supervision may de-
17 cline a transfer of authority under paragraph (1)
18 (and the employees appointed pursuant thereto) to
19 the extent that such authority relates to positions
20 excepted from the competitive service because of
21 their confidential, policy-making, policy-determining,
22 or policy-advocating character, and noncareer posi-
23 tions in the Senior Executive Service (within the
24 meaning of section 3132(a)(7) of title 5, United
25 States Code).

1 (c) REORGANIZATION.—If the Director of the Office
2 of Housing Finance Supervision determines, after the end
3 of the 1-year period beginning on the date of the abolish-
4 ment under section 201(a), that a reorganization of the
5 combined work force is required, that reorganization shall
6 be deemed a major reorganization for purposes of afford-
7 ing affected employees retirement under section
8 8336(d)(2) or 8414(b)(1)(B) of title 5, United States
9 Code.

10 (d) EMPLOYEE BENEFIT PROGRAMS.—Any employee
11 of the Office of Federal Housing Enterprise Oversight ac-
12 cepting employment with the Director of the Office of
13 Housing Finance Supervision as a result of a transfer
14 under subsection (a) may retain for 18 months after the
15 date such transfer occurs membership in any employee
16 benefit program of the Director of the Office of Housing
17 Finance Supervision or the Office of Federal Housing En-
18 terprise Oversight, as applicable, including insurance, to
19 which such employee belongs on the date of the abolish-
20 ment under section 201(a) if—

- 21 (1) the employee does not elect to give up the
22 benefit or membership in the program; and
23 (2) the benefit or program is continued by the
24 Director of the Office of Housing Finance Super-
25 vision.

1 The difference in the costs between the benefits which
2 would have been provided by such agency and those pro-
3 vided by this section shall be paid by the Director of the
4 Office of Housing Finance Supervision. If any employee
5 elects to give up membership in a health insurance pro-
6 gram or the health insurance program is not continued
7 by such Director, the employee shall be permitted to select
8 an alternate Federal health insurance program within 30
9 days of such election or notice, without regard to any other
10 regularly scheduled open season.

11 **SEC. 204. TRANSFER OF PROPERTY AND FACILITIES.**

12 Upon the abolishment under section 201(a), all prop-
13 erty of the Office of Federal Housing Enterprise Oversight
14 shall transfer to the Director of the Office of Housing Fi-
15 nance Supervision.

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